

# Factsheet: MBE/WBE Requirements

The Office of Drinking Water prepared this factsheet to briefly summarize the Minority-Owned Business Enterprise (MBE) and Women-Owned Business Enterprise (WBE) requirements.

## I. Six (6) Affirmative Steps

The Code of Federal Regulations Title 40 Part 31.36(e), “Procurement,” requires the Recipient and Prime Contractor to take all necessary affirmative steps to assure that minority-owned and women-owned businesses are afforded contracting opportunities. **This policy applies to all contracts, subcontracts and procurements for services (including engineering and legal), supplies, equipment, and construction.** The goal of this policy is to make MBE/WBE firms aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. To achieve this goal, the affirmative steps, otherwise known as “six good faith efforts,” that must be followed are:

1. Include qualified small and minority businesses and women’s business enterprises on solicitation lists;
2. Ensure that small and minority and women’s businesses are solicited whenever they are potential sources of products or services to be bid;
3. Divide total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority and women’s businesses (i.e. provide alternative bidding scenarios);
4. Establish delivery schedules to encourage participation by small and minority and women businesses (i.e. timing and flexibility);
5. Use the services and assistance of the Small Business Administration, and the Minority Business Development Agency, U.S. Department of Commerce;
6. Require the Prime Contractor to take affirmative steps as outlined in items one through five above to subcontract with small and minority and women’s businesses, if they award subcontracts.

## II. “Good Faith” Effort Compliance Documentation

The Recipient and Prime Contractors must provide documentation to support a “good faith” effort in the solicitation of MBE and WBE firms only. A Prime Contractor is a business concern that enters into written agreements directly with the Recipient which includes agreements to provide services (including engineering and legal), supplies, equipment and construction. The submission of documentation to support a “good faith” effort in the solicitation of Small Business Enterprise is not required; however, the Recipient and Prime Contractor must maintain this documentation in their files for possible future reference. Documentation may include the following:

1. Copies of announcements/postings in newspapers or other media for specific contracting/subcontracting opportunities. Include language in announcements/postings that MBE/WBE firms are encouraged to bid.
2. Copies of announcements/postings of contracting/subcontracting opportunities in trade publications or minority media that target MBE and/or WBE firms.
3. Documentation of sources used to identify potential MBE/WBE firms.

4. Documentation of contacts with MBE/WBE firms, including the firm name, address, telephone number dates of phone calls, letters and the contract results.
5. Copies of direct solicitation letters, emails, or faxes sent to all MBE/WBE firms.
6. Copies of the MBE/WBE certification documentation for ALL proposed prime and subcontractor MBE/WBE firms.
7. Documentation showing Prime Contractor has made the six good faith efforts to seek qualified MBE/WBE subcontracts - to the extent they use subcontractors.
8. Completion of the DBE Subcontractor Reporting Forms.

### III. Additional Guidance on Conducting Outreach

- A. Possible sources for identifying MBE/WBE firms:
  1. Virginia's Department of Small Business and Supplier Diversity's (SBSD) website.
    - <https://www.sbsd.virginia.gov/directory/> At Department of Small Business and Supplier Diversity's website, click on "SWaM Vendors Search". (Example: A search for vendors with commodity code 92500 – Engineering Services and 92533 – Engineer Services, Professional yields a list of registered firms.)
    - <https://www.sbsd.virginia.gov> At Department of Small Business and Supplier Diversity's website, click on "DBE Directory of Certified Vendors" for alphabetical list of construction related registered firms.
  2. Virginia's Department of Transportation's website.  
<http://www.virginiadot.org/business/resources/prequalified-list.pdf> The list of pre-qualified vendors has DBE information on each.

These searches yield a list of potentially qualified MBW/WBE businesses. From these lists, identify those businesses in your area to directly solicit. Solicit businesses that you would reasonably expect to respond and submit a quote.

To ensure the Recipient is given credit for good-faith outreach efforts, the Recipient **must** document the searches executed and the results of the searches, describe criteria used to determine who on the list(s) to directly solicit (probably area code or distance) and describe any other resources used to seek qualified MBE/WBE firms to solicit. The Recipient must pass the outreach guidance to Prime Contractors because they are also required to make good faith outreach efforts when searching of MBE/WBE subcontractors. Prime Contractors are required to document their MBE/WBE outreach efforts in the same manner as the project owners.

Additional information on meeting MBE/WBE requirements and forms required for substantiation of good faith efforts can be found on our website under "Drinking Water Funding Procedural Guidelines Package #4 – Procurement" at the following link: <http://www.vdh.virginia.gov/drinking-water/financial-construction-assistance-programs/procedural-guidelines-for-drinking-water-funding-recipients/>.